

# WEINER LAW GROUP<sup>LLP</sup>



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**LAWRENCE M. BERKELEY**  
**Member of the Firm**

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June 24, 2021

**Via Electronic Filing**

Clerk, United States District Court  
Martin Luther King Building  
& U.S. Courthouse  
50 Walnut Street, Room 4015  
Newark, NJ 07101


**Re:   McClaire, Venesha v. Costco Wholesale Corporation, et al.**  
**Docket No.:   MRS-L-1127-21**  
**Our File No.: COST-137**

Dear Sir/Madam:

Enclosed please find Petition for Removal on behalf of Defendant, Costco Wholesale Corporation. Please file same. By copy of this letter, we are advising our adversary of this Petition.

Thank you for your courtesy in this regard.

Respectfully submitted,



LAWRENCE M. BERKELEY  
A Member of the Firm

LMB/yo  
Enclosures.

cc:   Clerk, Superior Court of New Jersey, Morris County (via electronic filing)  
Adam B. Lederman, Esq. (via email – [adaml.ct@dsslaw.com](mailto:adaml.ct@dsslaw.com))

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Attorneys for Defendant, Costco Wholesale Corporation

Our File No.: COST-137

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**VENESHA McCLAIRE**

**Plaintiff**

**vs.**

**COSTCO WHOLESALE  
CORPORATION, DDR SOUTHEAST  
EAST HANOVER, L.L.C. a/k/a INLAND  
SOUTHEAST EAST HANOVER, L.L.C.,  
SITE CENTERS CORP., JOHN DOES 1-  
10 (fictitious names representing unknown  
individuals) and/or XYZ CORPS. 1-10  
(fictitious names representing unknown  
corporations, partnerships and/or Limited  
Liability Companies or other types of legal  
entities)**

**Defendants**

**CIVIL ACTION NO.:**

**PETITION FOR REMOVAL**

Petitioner, Costco Wholesale Corporation, by its attorneys, Weiner Law Group, LLP, respectfully petitions the United States District Court for the District of New Jersey as follows:

1. This case was commenced on May 21, 2021 in the Superior Court of New Jersey, Law Division, Morris County. Suit is identified in the Superior Court as Venesha McClaire v.

Costco Wholesale Corporation, et al., Docket No. MRS-L-1127-21. (See Exhibit A).

2. Costco Wholesale Corporation first received a copy of the Complaint on May 26, 2021 when Plaintiff served Costco through its registered agent. (See Exhibit B).

3. The filing of this Petition for Removal is timely because it is filed within thirty days of the date Costco Wholesale Corporation first received notice of the lawsuit.

4. Plaintiff's Complaint in the Superior Court of New Jersey, Law Division, Morris County, asserts damages of a non-specified amount. Plaintiff allegedly sustained injuries as a result of a slip and fall incident within the East Hanover, New Jersey Costco warehouse. As such, Defendant Costco Wholesale Corporation believes the amount in controversy exceeds \$75,000, exclusive of interest and costs.

5. Costco Wholesale Corporation is informed and believes that Plaintiff is an individual citizen of the State of New Jersey.

6. Defendant/petitioner, Costco Wholesale Corporation, is a Washington corporation and its principal place of business is 999 Lake Drive, Issaquah, Washington 98027.

7. Upon information and belief, co-defendant DDR Southeast East Hanover, LLC a/k/a Inland Southeast East Hanover, LLC ("DDR") is an Ohio limited liability company with a principal place of business located within Ohio. (See Exhibit C). To date, co-defendant DDR has not filed an Answer to the Complaint, no appearance has been entered, and the undersigned has been unable to otherwise identify counsel for DDR in an effort to obtain DDR's consent for the removal of this matter to federal court. Costco Wholesale Corporation currently does not have the ability to obtain consent from DDR.

8. Upon information and belief, co-defendant Site Centers Corp., ("Site Centers") is an Ohio corporation with its principal place of business located at 3300 Enterprise Parkway, Beachwood, Ohio 44122. (See Exhibit D). To date, co-defendant Site Centers has not filed an

Answer to the Complaint, no appearance has been entered, and the undersigned has been unable to otherwise identify counsel for Site Centers in an effort to obtain Site Centers' consent for the removal of this matter to federal court. Costco Wholesale Corporation currently does not have the ability to obtain consent from Site Centers.

9. Therefore, complete diversity exists among the parties.

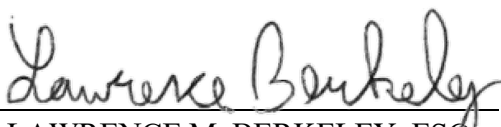
10. In Lewis v. Rego Co., 757 F.2d 66 (3d Cir. 1985), the Third Circuit held that stating "no entry of appearance has yet been made on behalf of [defendant]" is sufficient to bring it within the non-service exception to the requirement to obtain consent from all defendants prior to seeking removal. Lewis v. Rego Co., 757 F.2d 66, 68–69 (3d Cir. 1985).

11. Accordingly, this action is removable to this Court pursuant to 28 U.S.C. § 1441.

**WHEREFORE**, Petitioner, Costco Wholesale Corporation, Defendant in the action described herein, which is currently pending in the Superior Court of the State of New Jersey, Law Division, Somerset County, Docket No. MRS-L-1127-21, prays that this action be removed therefrom to this Court.

WEINER LAW GROUP LLP  
**Attorney for Defendant, Costco Wholesale Corp.**

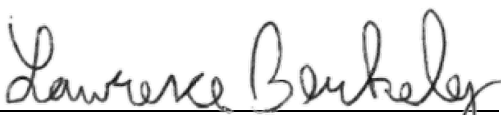
Dated: June 24, 2021

BY:   
LAWRENCE M. BERKELEY, ESQ.  
(LMB-7706)

I certify that a true copy of the Summons and Complaint filed in the Superior Court of the State of New Jersey, County of Somerset, is annexed hereto as Exhibit A. The affidavit of service is annexed hereto as Exhibit B. Information regarding the principal place of business for DDR and Site Centers are annexed hereto as Exhibits C and D.

WEINER LAW GROUP LLP  
**Attorney for Defendant, Costco Wholesale Corp.**

Dated: June 24, 2021

BY:   
LAWRENCE M. BERKELEY, ESQ.  
(LMB-7706)